

Application No. 09/967,078
Applicant: Kyongkun Oh
Filing Date: September 28, 2001
Attorney Docket No. KKOH-100

Since this response has been filed within two months of the mailing date of the Final Rejection, in the event that the Examiner does not issue a Notice of Allowability, a timely Advisory Action is requested.

I. Claim Objections

Applicant appreciates and acknowledges the Examiner's withdrawal of objections to claims 2, 11, and 12.

II. Anticipation Rejections

Claims 1-15 are rejected as anticipated under 35 USC §102(e) by the Usher publication. See Office Action Final. For the reasons set forth below, Applicant respectfully traverses the Examiner's anticipation rejections, and submit that claims 1-15 are allowable.

Preliminarily, Applicant wishes to thank the Examiner for the Examiner interview conducted with the Applicant's representative today, April 1, 2004.

Applicant herein renews all of the arguments set forth in the Response and Amendment previously filed, and for the same reasons, respectfully submit that all pending claims are allowable.

Based on the telephonic discussion with the Examiner, Applicant wish to clarify the definition of the claimed term "push" in the independent claims of the present application.

First, it is well established that anticipation requires the disclosure in a single prior art reference of each element of the claim under consideration. W.L. Gore & Associates v. Garlock, Inc., 220 USPQ 303, 313 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984) (emphasis added). Moreover, the Examiner bears the initial burden of establishing a prima facie case of anticipation. In re Warner, 154 USPQ 173, 177 (CCPA 1967), *cert. denied*, 389 U.S. 1057 (1968) (emphasis added).

Independent claim 1 requires, among others, the server terminal is configured to push the received real time data substantially immediately to the connected client terminal. Additionally, independent claims 9 and 15 require, among others, pushing

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information received from the connected data provider substantially in real time to the connected client terminal.

The Examiner, in referring to the Usher reference stating "Internet and application server 115 or database server 120 may run one or more processes suitable for providing real-time auctions for swaps." as anticipating the claimed invention. During the telephonic discussion of April 1, 2004, the Examiner pointed out to Applicant's representative that the above-quoted disclosure in Usher *inherently* teaches the claimed invention including the server terminal configured to push the received real time data and the respective step thereof.

Applicant wishes to remind the Examiner that in order for the Examiner to rely upon the inherency principle to reject the pending claims of the present application, the Examiner must establish that the inherent result must necessarily flow from the disclosure of the Usher's real time auctions for swaps. See Ex Parte Levy, 17 USPQ2d 1461, 1464 (BPAI 1990).

The Examiner maintains that Usher's real time auctions for swaps is inherently disclosing the claimed invention including pushing the received real time data. Applicant respectfully asserts that the Examiner has not established that the Usher's real time auction for swaps necessarily implements the use of real time data push as clearly claimed in the present application.

Also significant, however, is the plain meaning of the claimed term "push" in the independent claims of the present invention. As shown in the supporting documentation defining the claimed term "push" is defined as –

in client/server applications, to send data to a client without the client requesting it. The world wide web is based on a pull technology where the client browser must request a web page before it is sent.

See A Word Definition From the Webopedia Computer dictionary (downloaded June 1, 2004 from www.webopedia.com/TERM/p/push/html).

As can be seen, contrary to the Examiner's assertions, the plain meaning of the claimed term "push" set forth in all independent claims clearly distinguish over the cited references. Indeed, contrary to the Examiner's assertions, the subject matter of the invention set forth in the pending claims are not anticipated by the cited reference. Accordingly, Applicant respectfully traverses the Examiner's rejections and respectfully submit that all pending claims are allowable.

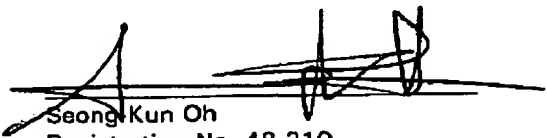
Application No. 09/967,076
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For the foregoing reasons it is submitted that all of the claims are now in condition for allowance and the Examiner's early re-examination and reconsideration are respectfully requested.

Respectfully submitted,
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June 1, 2004
(Date)

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(KKOH-100)